

REMARKS

I. Status of the Claims

The status of the claims is as follows:

Claim 6 has been cancelled;

Claim 12 has been withdrawn;

Claim 1, 13, and 14 are currently amended; and

Claims 2-5, and 7-11 have been previously presented.

II. 35 U.S.C. 103 Rejections Based Upon Dufour in View of US4970827 and US5950365

In the office action claims 1-5, 10, 13, and 14 were rejected as being unpatentable over Dufour in view of US4970827 and US5950365. Claims 7 and 9 were rejected as being unpatentable in view of the same references. Claim 8 was rejected as being unpatentable in further view of US PG Pub 2004/0163320. Claim 11 was rejected as being unpatentable in further view of US Patent Pub. 2002/0066232. Applicants respectfully traverse the examiner's position.

Applicants' device is a system used to move a glass window pane of a motor vehicle in a controlled manner without the need for excess guides located in the door such as guide 42 shown in the '365 Lieb patent and the guide 30 of the '827 patent to Djordjevic. Failure to use multiple guides of the cited references would likely result in jamming of the window pane. These guides, as used in the cited references, add weight to the system and increase the overall thickness of the vehicle door. The window winding arrangement of the present disclosure is designed to rely on the interface between an edge of the pane and the window frame to guide the pane. This is accomplished by use of the spring bias forces applied to 7.1 and 7.2 of the door to create a moment force to rotate the pane to cause the upper edge of the window glass to move toward the

window frame. The present disclosure uses two springs with different biasing forces to apply a moment force (a rotating force) to the glass pane to keep the glass in engagement with the guide when the window is moving in either direction. None of the cited references either alone or in combination teach this unique arrangement.

Dufour by itself or when combined with the '827 patent to Djordjevic or the '365 patent to Lieb does not teach the claim limitations set forth in claims 1-5, 10, 13 and 14, especially when viewed in light of the amendments to claims 1, 13 and 14.

The current state of the law on obviousness should be observed when reviewing claims of an application. The Supreme Court in *KSR* ruled, "the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR International Co. v. Teleflex, Inc.*, -- U.S. --, 127 S.Ct. 1727, 1734, 82 U.S.P.Q.2d 1385 (2007). The Court further stated that when the prior art teaches away from combining certain known elements, discovery of successful means of combining them is more likely to be nonobvious. *Id.* at 1736. Further, rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.* at 1741. "[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *Id.* at 1741.

The '365 patent to Lieb is directed to a window lifter that includes entrapment protection to prevent body parts from being trapped by the window. Lieb uses safety springs 1e, 1d to allow the spring to stretch to create play in the cable in the event a hand is pinched between the top of the window and the door frame. The spring, according to Lieb gives the electronics of the window controller enough time to reverse the window motor to prevent injury. Figs. 2a-2b of

Lieb show that under normal window usage, retainer 2a engages housing 1a to limit the effect of the spring on the cable. Lieb does not use the springs to apply a moment force to the glass pane to maintain contact with the window frame. There is no teaching in Lieb to use springs without the housing 1a, to use springs of different biasing forces, or to use the springs to apply a moment force to the glass pane to maintain contact with the window frame in either direction.

As stated in *KSR*, obviousness cannot be sustained where a reference teaches away from combining known elements. Further, *KSR* states that a patent composed of several elements is not proved obvious merely by demonstrating the each of its elements was, independently, known in the prior art. As in our case, while use of two springs with a window winding arrangement is shown in one of the references, there is no teaching to combine the springs used for pinch control with the arrangement shown in Dufour to cause an edge of the window pane to maintain contact with the linear guide. There is also no teaching to use two springs of different biasing forces to cause the pane to maintain contact with a guide edge during movement of the pane in either direction. This is not a matter of design choice as none of the references even discuss the use variable biasing forces to cause the pane to maintain contact with the guide. It is not obvious to combine Lieb with Dufour or Djordjevic to arrive at the arrangement claimed in claims 1, 13 and 14 even if one were to do so they still would not arrive at applicants' claimed invention.

The '012 patent to Dufour does not include any spring mechanism and the glass pane relies on two guides on each edge of the glass to guide the window. There is no teaching in Dufour to address the need to provide springs to apply varying biasing forces to the glass pane to maintain the glass pane to the window guide. Combining Lieb does not correct this deficiency. The use of the single spring in the '827 patent to Djordjevic is only used to tension the cable in the event the cable stretches and Djordjevic does not teach or even suggest that two springs can

be used to apply varying biasing forces to the pane to create a force so that the edge of the window maintains pressure on the guide in both directions. Neither Lieb, Dufour or Djordjevic alone or in combination teach the use of springs to apply varying biasing forces to the pane to create the required moment force.

Claim 1 has been amended to correct the indefiniteness issue.

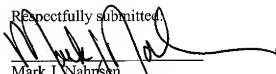
V. Summary and Conclusion

For the reasons stated above, applicants request allowance of claims 1-5, 7-11, 13 and 14. Please contact applicants' undersigned attorney if there are any remaining issues which could assist in expediting prosecution of this application.

No fees are believed due at this time, however, please charge any deficiencies or credit any overpayments to deposit account 12-0913 with reference to our attorney docket number 39611-99473.

Date: October 28, 2009

Respectfully submitted,



Mark J. Nahrsen
Registration No. 51,093
Barnes & Thornburg LLP
P.O. Box 2786
Chicago, Illinois 60690-2786
Phone: 312-214-4810